IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8591 OF 2006.

Dhanak Industrial Co-operative
Society Ltd., and others ..Petitioners

versus

Divisional Joint Registrar
& Others ..Respondents

Mr.Dinkar Rao for the Petitioner

Mrs.G.P.Mulekar for respondent Nos.1 and 2.

Mr.R.V.Govilkar for respondent Nos.4 to 6

Coram : S.R.Sathe, J.
Dated : 20th July, 2007

P.C.

1. Heard both the learned advocates.

2. The petitioner No.1 is a registered co-operative society of the persons who are doing work of boot polish at various railway platforms. It is their case that Annual General Body Meeting of the society took place on 12.6.2005 and new body was elected for the period of three years, and even the Assistant Registrar, Co-operative Societies, H Ward, Mumbai gave approval for the same by his order dated 4.7.2005. The said order was challenged in Revision Application No.430 of 2005 and the Divisional Joint Registrar, Co-operative Societies, Mumbai was

pleased to set aside the order passed by the Assistant Registrar on 4.7.2005. According to the petitioner, the said order was passed without hearing the petitioners and the same is illegal. Hence, petitioner have prayed for setting aside the said order in this Writ Petition.

3. The respondent Nos.3 and 4 filed their reply and opposed the petition. It is mentioned in the affidavit of respondent No.4 that the order passed by the Assistant Registrar was behind their back and illegal and hence the same was set aside by the Divisional Joint Registrar. According to them the tenure of the earlier Managing Committee is already over in 2006. Moreover, after passing of the order by Divisional Joint Registrar, fresh election has taken place on 12.6.2006 and a new body is elected for the period 2006-2007 to 20078-2009. So, under the circumstances, the present petition has in fact become infructuous.

4. It is not in dispute that the earlier managing committee was elected for the period of three years from 27.7.2003. From the record it is also evident that after the Divisional Joint Registrar passed the order dated 26.9.2005, election

officer was appointed and after following due procedure fresh election has taken place on 12.6.2006. However, curiously enough the petitioners are not seeking any relief about the said election which appears to have taken place after the tenure of First Managing Committee was over. Though the petitioners have alleged that the impugned order dated 26.9.2005 is passed without giving them opportunity of being heard, the same appears to be incorrect in view of the specific observation made by the Divisional Joint Registrar, wherein he has stated that the respondents though served by RPAD preferred to remain absent for hearing. Then it is also very clear that when the initial order passed by the Assistant Registrar on 4.7.2005, the period of three years of the Managing Committee elected on 27.7.2003 was not over. There is nothing on record to show under what circumstances, the fresh election was held on 12.6.2005 before the expiry of the tenure of the Managing Committee. So, considering all these aspects I find that the order passed by the Divisional Joint Registrar is legal and correct and there is no substance in the present Writ Petition. Hence the same is rejected.

(S.R.Sathe, J.)